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TAGS: PHUM OTRA SU
SUBJECT: LEGAL ADVISER BELLINGER MEETS WITH HIGH
COMMISSIONER FOR HUMAN RIGHTS LOUISE ARBOUR

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Summary

¶1. (SBU) While in Geneva for the U.S. presentation before the UN Committee Against Torture in Geneva, State's Legal Adviser John Bellinger met May 8 with UN High Commissioner for Human Rights Louise Arbour. Her agenda included a request for more funding, a grim report on her Sudan trip, and a reminder of her outstanding request for a meeting with the Secretary. Arbour led by requesting formal, biannual consultations with the USG on OHCHR business, a request the U.S. delegation welcomed. She also pressed the U.S. on detainees and counterterrorism practices. She asked about secret prisons, secret flights, renditions, and diplomatic

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assurances for returned terrorism suspects. L/A Bellinger told Arbour that United States was committed to meeting its human rights obligations. U.S. efforts over the past four years had resulted in significant improvements in both practices and law. L/A Bellinger and delegation have cleared this message. End Summary.

¶2. (U) Participants:

U.S.: Legal Adviser John Bellinger III, IO DAS Mark Lagon, DRL/MLA Director Julieta Valls Noyes, U.S. Mission Legal Adviser Jeff Kovar, and U.S. Mission PolCouns Velia DePirro(notetaker).

OHCHR: High Commissioner Louise Arbour; Sr. Advisor Jonathan Prentice; Chief of Staff Shahrzad Tadjbakhsh; Paul Oertly and Richard Lapper.

Sudan: Worse Than A Year Ago

¶3. (U) In a May 8 meeting with State Department Legal Adviser John Bellinger, UN High Commissioner for Human Rights Louise Arbour led off with a discussion on Sudan. Arbour, who had returned from a week-long visit to Sudan May 5, described the situation in Darfur as even worse than a year ago. She stressed that the security situation was precarious at best. Arbour worried that little progress had been made on the Comprehensive Peace Accord and that the new peace agreement would fare no better without significant pressure on the Sudanese government to disarm the Janjaweed. Pointing to the Deputy Secretary's role in the just concluded peace accord, L/A Bellinger stressed U.S. commitment to finding a solution to the situation in Sudan.

Appeal for More Funding

¶4. (U) Arbour thanked L/A Bellinger for U.S. funding for OHCHR activities, noting that the USG is the largest individual donor to her organization. At the same time, she asked for increased funding not tied to the Voluntary Fund for Victims of Torture. (Note: The U.S. gave the fund close to six million dollars in 2005 -- just over half of all its funding. End Note) Arbour said it was important for OHCHR to carry out its mandate as the UN's lead human rights agency regardless of how the new UN Human Rights Council developed. The OHCHR Strategic Management Plan, published earlier this year, laid out a roadmap for OHCHR reform and activities, but to be successful OHCHR needed more funding. Asked about increasing voluntary contributions to OHCHR, IO DAS Lagon noted that U.S. support for the doubling of OHCHR's regular budget over the next five years, despite a longstanding USG preference for voluntary funding schemes in the UN system, automatically meant an increase in U.S. funding. He reaffirmed U.S. continued support for OHCHR. He highlighted our interest in seeing increased funding used to staff and expand field operations rather than the body's Geneva headquarters. L/A Bellinger said that greater attention should be drawn to the U.S. role as the major donor to human rights efforts worldwide. Too often it is taken for granted with little recognition for its work in promoting and protecting human rights.

Request for Formal, Regular Consultations

¶5. (U) Arbour indicated that other donors to the OHCHR held regular consultations with her staff about their activities, which she characterized as extremely helpful. She requested more regular, perhaps biannual, higher-level consultations between OHCHR and the USG. DRL/MLA Director Noyes said the USG agreed this would be useful, and coincidentally had just requested all its missions overseas where there is an OHCHR presence to report on coordination with the USG in the field. Arbour welcomed this news and said she would be very

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interested to learn the results of this survey. DAS Lagon suggested that the first round of formal consultations could occur in July, when he and other USG officials would return to Geneva to present another Treaty report to the UN.

Treaty Body Reform

¶6. (U) Arbour raised her ambitious plan for treaty body reform. She admitted that numerous legal complexities, practical questions and turf battles will have to be resolved before the plan for a single treaty body to replace the seven existing bodies is a reality. Adviser Bellinger noted that the United States has serious concerns with the proposal, including the U.S. view that each human rights instrument would need to be amended and re-ratified to eliminate the treaty body it established.

Protecting Human Rights in Conflict Against Terrorism

¶7. (SBU) Arbour then turned the discussion to U.S. handling of detainees in Guantanamo, secret prisons, secret flights, and renditions. Arbour said she understood the need for states to protect their citizens from terrorism -- a fundamental human right. Arbour asked whether so much secrecy regarding information on terrorism suspects and detainees was necessary to U.S. national security. She speculated that the debate on U.S. terrorism policy and practices would be circumscribed if the USG released more general information. L/A Bellinger reminded Arbour that the U.S. provides the ICRC access to the vast majority of detainees even though not required to do so and that even the Geneva Conventions recognizes that certain categories of detainees who pose a

threat to the security of the detaining state are deemed to have forfeited their right to outside communication. The United States was trying to balance transparency with the need to safeguard intelligence and protect the American people, noting intelligence cooperation plays an important role in international efforts to bring criminals to justice. Although U.S. efforts to be transparent have been met with ever more ridiculous allegations, the USG has decided that rebutting each false allegation would serve little purpose and could compromise intelligence. While the United States could not reveal information regarding intelligence arrangements with foreign governments, cooperation occurred with the consent of both governments across a range of activities. L/A Bellinger said the United States had asked European governments to try to calm speculation in their countries.

18. (SBU) The High Commissioner asked about the U.S. practice of seeking diplomatic assurances that detainees returned to their country of origin would not be tortured. She said seeking such assurances undermined the ultimate goal of her office and others to minimize the incidence of torture. L/A Bellinger explained that the U.S. commitment against torture remained firm, and that the U.S. would not return someone to a place where torture was more likely than not. The U.S., he said, was trying to manage a difficult situation. Critics call for the release of detainees, but oppose their return to their home countries because of torture concerns. Obtaining assurances was a practical way to address these concerns. Those who criticize U.S. arrangements to fight Al-Qaeda need to provide pragmatic solutions. Neither the United States nor any country should be expected to accept persons considered dangerous to its citizens. He emphasized the huge effort made by the United States to look for countries to accept released terrorism suspects, e.g., the Uighurs transferred to Albania May 4.

19. (SBU) Arbour called for more judicial oversight of Guantanamo and detainees. L/A Bellinger noted that U.S. courts are heavily engaged in the process. He stressed that many of the complaints against the United States were based on information and practices from 3-4 years ago, and did not take into account significant improvement in the last few years. He specifically asked the High Commissioner to ensure that UN human rights staff give objective and balanced treatment to the United States. The five Special Rapporteurs, who reported on Guantanamo, had failed to do this. They did not meet with USG officials, turned down the invitation to visit Guantanamo, and ignored the substantial information provided in writing by the United States. Arbour defended the Rapporteurs' decision ("on principle") not to visit Guantanamo because they would not have had access to the detainees, but said the Rapporteurs could have handled the process better.

Request for Meeting with the Secretary

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110. (SBU) In closing, High Commissioner Arbour reiterated her request to meet with the Secretary. She said that she understood that the Secretary's travel and meeting schedule was extremely heavy. Arbour noted, however, that she was approaching the half-way point in her term without having had the opportunity to meet the Secretary. L/A Bellinger assured Arbour that, although scheduling a meeting has been impossible to date, no slight was intended. He said that the Secretary's travel schedule has been heavy but he committed

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to explore the possibility of a meeting.
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